

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

<input type="checkbox"/> CENTRAL DIVISION	220 W. BROADWAY, SAN DIEGO, CA 92101-3814	(619) 531-3039
<input type="checkbox"/> KEARNY MESA BRANCH	8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187	(858) 495-5051
<input type="checkbox"/> EAST COUNTY DIVISION	250 E. MAIN ST., EL CAJON, CA 92020-3941	(619) 441-4100
<input type="checkbox"/> NORTH COUNTY DIVISION	325 S. MELROSE DR., ANNEX BLDG., STE. 350, VISTA, CA 92081	(760) 726-9595
<input type="checkbox"/> SOUTH COUNTY DIVISION	500 THIRD AVE., CHULA VISTA, CA 91910-5649	(619) 691-4726

APPEAL PROCEDURE – MISDEMEANORS [CRC 180-191]

WHAT IS AN APPEAL?

Your Right To Appeal	You have the right to appeal a decision of the San Diego Superior Court to the Appellate Division of the Superior Court. <i>[See Penal Code Section 1466.]</i>
What An Appeal Does	<p>The Appellate Division will review the action of the trial court. Your task in bringing your appeal is to convince the reviewing court that the trial court erred in hearing your case and that the error was sufficient to cause its action to be reversed. Your reason(s) for believing the court's action should be reversed are called your "ground(s) for appeal."</p> <p>If you are successful on appeal, the decision or order of the trial judge will be set aside and your case will be returned to the trial court for re-hearing or for further action.</p>
What An Appeal Does Not Do	<p>The Appellate Division will not conduct a new trial, consider new facts, or re-weigh the credibility of witnesses. Evidence that was not presented to the trial court cannot be included in the appeal.</p> <p>The filing of an appeal does not prevent a traffic conviction from being reported to the DMV. Your conviction will be removed from DMV records only if it is reversed on appeal.</p> <p>The filing of an appeal does not automatically stay the conditions of your sentence. While your case is on appeal, you are responsible for complying with all orders of the court concerning your case.</p> <p>FINES & PROGRAMS If you wish to have your fine payment or completion of a program stayed pending resolution of your appeal, you must make that request before the court in which you were sentenced.</p> <p>CUSTODY If you have been sentenced to serve custody, you have the right to have reasonable bail set while your appeal is pending. You must make your request for bail before the court in which you were sentenced. The judge will set the amount of bail. You will be released from custody when you post an appeal bond in the amount set by the court.</p>

WHERE TO GET HELP

Attorneys	You have the right to have an attorney represent you in any matter before the court. If you cannot afford an attorney, you may request the court to appoint counsel to represent you. If you request court-appointed counsel, you must file a financial declaration to demonstrate your indigency and you may be asked to submit proof of your income and assets.
Law Libraries	<p>Appeal information can be found in any law library. Refer to government telephone listings for San Diego County Law Library branch locations and hours.</p> <p>The law governing appeals in misdemeanors is contained in the California Rules of Court, Rules 180-191. Procedural information and pleading formats are contained in appeal practice guides and treatises.</p>
Other Sources	You may also wish to consult other libraries, bookstores, or web sites. See the following web sites for access to court rules and statutes: www.leginfo.ca.gov , www.courtinfo.ca.gov

YOU SHOULD KNOW:

Commissioners & Judges Pro Tem	Judges pro tem are appointed by the judges of the court on a temporary basis to hear specific matters by stipulation of the parties. The criteria for their appointment is set by the judges. Commissioners are judicial officers appointed by the judges who are empowered by law to hear various types of cases. They are required by law to have the same qualifications for office as judges. They hear misdemeanor matters by stipulation of the parties.
Legal Advice & Representation	<p>Court staff cannot give you legal advice. The law prohibits anyone who is not an attorney from giving you legal advice or representing you in any legal matter.</p> <p>If you are representing yourself, you are responsible for meeting all the legal requirements for conducting your appeal. If you are represented by counsel, it is expected that all court business will be conducted through your attorney of record. All papers in your appeal must be filed by your attorney of record unless and until he/she is relieved by the court.</p>

[See reverse for further information]

THE BASIC STEPS

Notice Of Appeal

The notice of appeal must be filed within 30 days of the judgment or order you wish to appeal. It is your formal notice to the court that you are appealing its decision. *[See Rule 182(a).]*

Settled Statement

The settled statement is a formal written summary of the proceedings and evidence in the trial court. It must contain your grounds for appeal and is designed to assist the appellate judges in reviewing your case. You are required to file a settled statement; the use of a transcript is optional. If you choose to use a transcript, you are responsible for arranging, and paying for, its preparation.

Once you have filed your proposed settled statement (and transcript, if you are using one), your opposing party (the prosecuting agency) will file a response with any corrections or additions it deems necessary. The judge (or commissioner) who heard your matter will resolve any disputes concerning the statement and order one of the parties to prepare an "engrossed settled statement." The engrossed settled statement will be signed by the judge (or commissioner) and sent to the Appellate Division with the record on appeal.

IMPORTANT NOTE: The deadlines for the filing of the documents and the settling of the statement in your appeal are set forth in the court rules that apply to your case. This is determined by whether the proceedings were recorded electronically or reported by a court reporter.

Experimental Rule 187.5 has been adopted by this court and applies to all appeals in which the proceedings were electronically recorded. In matters reported by a court reporter or not recorded at all, Rules 180-191, excluding 187.5, apply.

Briefs

Once the Appellate Division has received your appeal, you will be notified of a hearing date and a schedule for the filing of briefs. Briefs are the written summaries of the parties' legal arguments that are filed prior to the hearing. You are required to file an opening brief and may file a reply brief if you wish. *[See Rules 103, 105.]*

Hearing and Decision

You are not required to make an oral argument at the hearing, but may elect to do so. Tentative rulings are posted on the day of the hearing. The decisions of the appellate judges are usually announced at the hearing but do not become final until after the time periods prescribed in the Rules of Court. *[See Rules 106 and 107.]*

Remittitur

Once the decision of the appellate judges has become final, a "remittitur" will be issued containing the Appellate Division's formal order and returning jurisdiction over your case to the trial court. The trial court is responsible for carrying out the Appellate Division's order. *[See Rule 191.]*

ABOUT FILING

Forms & Pleadings

The Notice Of Appeal form for misdemeanors is available in the trial court in which your matter was heard. All other appeal documents must be prepared by the filing party. Forms and pleadings filed with the court must be **original** (signed in ink) and contain your name, address, and daytime telephone number. *[See Rule 201 for format requirements.]*

FOR ON-LINE ACCESS to the Notice Of Appeal form, click here: [\(link\)](#)

Where To File

Your papers should be filed with the appeal clerk in the trial court. Office addresses and telephone numbers for each court are listed in the heading on the front of this form.

Filing Deadlines

Papers filed with the court must be **received** by the filing deadline. Postmarks are **not** accepted. Filing time is calculated in calendar days, unless otherwise specified. If your filing deadline falls on a Saturday, Sunday, or court holiday, the deadline is extended to the next court day. *[See Code of Civil Procedure, Sections 10, 12(a).]*

Service Of Papers

You must observe the legal requirements for serving the opposing party with copies of the original pleadings you file with the court. Refer to addresses below. *[See Code of Civil Procedure, Section 1013(a) and (b).]*

SD CITY ATTORNEY: Appellate Unit • 1200 Third Ave., Ste. 700 • San Diego, CA 92101
DISTRICT ATTORNEY: Contact the District Attorney to obtain the correct branch address.

THE RECORD ON APPEAL

Documents & Records

The record on appeal consists of copies of the citation or complaint, the court minutes, your notice of appeal, the engrossed settled statement, and other pertinent documents. *[See CRC183(a).]*

Audio recordings of the proceedings and exhibits are **not** included in the record on appeal, pursuant to Appellate Division policy.

Audio Recordings

If the proceedings in your case were electronically recorded, a copy of the audio recording will be provided to you at no cost for use in preparing your appeal. *[See Rule 187.5(c).]*